

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 2:06-cr-55-1

ALBERT D. MCCANTS,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is a *sua sponte* motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce Defendant's sentence based on a subsequent reduction in the applicable sentencing guideline. On November 1, 2007, the United States Sentencing Guidelines were amended to reduce by two levels the guidelines in Section 2D1.1 for cocaine base (also known as crack). Subsequently, the Sentencing Commission amended Section 1B1.10 to make the crack amendment retroactive, effective March 3, 2008. Pursuant to a Standing Order entered on February 6, 2008, this case was designated for Standard consideration.

The Court has received and considered the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, plea agreement, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue. The Court has also considered the applicable factors under 18 U.S.C. § 3553(a), consistent with § 3582(c)(2), and public safety.

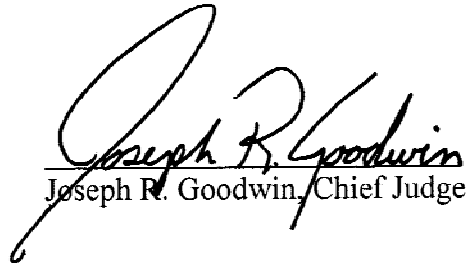
Based on the drug amount attributed to this defendant, and based on an adjustment for acceptance of responsibility, the Court found that the defendant's base offense level was 23. The

court also found that the defendant had a criminal history category of Iv. Consequently, the defendant's original guideline range was 70 to 87 months. Based on a motion for substantial assistance, the Court reduced the defendant's total offense level to 14. The imprisonment range for criminal history category IV and offense level 14 was 27 to 33 months imprisonment. The defendant was sentenced to 30 months imprisonment.

The United States has indicated that it does not object to a two-level reduction in the defendant's sentence. Consequently, the Court **ORDERS** that the defendant's base offense level be reduced by two levels, resulting in a new total offense level of 12 and a guideline range of 21 to 27 months. It is further **ORDERED** that Defendant's previous sentence be reduced to a period of **24.5** months, with credit for time served to date pursuant to U.S.S.G. 1B1.10(b)(2)(C).

The Court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, the Federal Bureau of Prisons and the United States Marshals.

ENTER: March 24, 2008


Joseph R. Goodwin, Chief Judge